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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,345	03/30/2004	Walter Thomaschewski	03630- P0035A	4997
24126	7590	11/08/2005	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC			RACHUBA, MAURINA T	
986 BEDFORD STREET			ART UNIT	
STAMFORD, CT 06905-5619			PAPER NUMBER	

3723

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/813,345	<b>Applicant(s)</b> THOMASCHEWSKI, WALTER	
	<b>Examiner</b> M Rachuba	<b>Art Unit</b> 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03 October 2005 has been entered.

### ***Drawings***

2. Applicant's amendments have overcome the objection to the drawings.

### ***Specification***

3. The amendment filed 03 October 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The amendment to the specification of 03 October 2005 " It has been found that using a suitable diamond coarse grit or a hard metal coating of similar quality suitable tradeoff between removal rate and quality of the surface to be ground can be reached." As applicant has previously disclosed a specific grit size (albeit one that is not easily recognized) and has not previously disclosed what a "suitable" diamond coarse grit entails, the amendment introduces new matter. Further, the examiner could find no disclosure that the clamping part is "generally triangular". This amendment also introduces new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1, 3, 8, 10-12, and 14-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The term "generally triangular" is new matter, the examiner could not find support for this limitation in the originally filed specification.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3, 5-7 and 10-17 are rejected under 35 U.S.C. 103(a) as obvious over Pollak US 20020069727A1. '727 discloses the claimed invention, including that it is old and well known to use grinding tools of special shapes with oscillating drives [0035]. The clamping part comprises an outer surface capable of acting as a guide surface for

supporting the surface of a work piece at a predetermined angle. '727 is silent as to the shape of the clamping part being generally triangular, and does not disclose the specific angle size. It would have been an obvious matter of design choice to make the different portions of the clamping of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47. Here, there is no evidence that the clamping part would function any differently if it were square, rectangular, or of any other polygonal shape. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the angle of the size desired, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Here, the predetermined angle would depend on the workpiece being sharpened and the shape and/or angle of the edge, and one of ordinary skill would have considered it obvious to make the angle of any desired size range, dependent on the types of workpieces processed.

8. Regarding claims 5-7, please refer to figures 4 and 5 of '727.

9. Regarding claims 10 and 11, it is assumed that applicant is claiming the abrasive to be a diamond or metal grit of specific coarseness. The examiner takes Official notice that diamond and metal grit is available in a variety of particle sizes, from fine to coarse, and that one of ordinary skill would have found it obvious to have provided the grinding

tool of '727 with abrasive of appropriate coarseness dependent on the work piece processed and the material being ground.

10. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pollak, '727 as applied to claim 1 above, and further in view of De Angelis et al, '709. '727 does not disclose that the grinding plate comprises two outer surfaces each of which is configured as a grinding surface. '709, figure 5, teaches a tool sharpener having a grinding tool with two surfaces, each configured as a grinding surface, dependent on which surface is desired to be used. It would have been obvious to have provided the grinding tool of '727 with a grinding surface on both surfaces of the tool, increasing the life of the tool by alternately using one surface of the tool until worn, and then using the other surface of the tool.

11. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pollak, '727 as applied to claim 1 above, and further in view of Pecze et al, 3,651,715. '727 does not disclose a plurality of different clamping parts designed for different predetermined angles and being exchangeable so as to allow a setting of the predetermined angle. In a sharpening device, '715 teaches exchanging different clamping parts 9 to allow for setting different predetermined angles. It would have been obvious to one of ordinary skill to have provided '727 with different clamping parts designed for different predetermined angles and being exchangeable as taught by '715, column 2, lines 61-63, to allow other workpieces to be used with the sharpening device.

**Conclusion**

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M Rachuba whose telephone number is 571-272-4493. The examiner can normally be reached on Monday-Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M Rachuba  
Primary Examiner  
Art Unit 3723

Handwritten signature and date 11/1/05.